

SENATE BILL 2072

By Cohen

AN ACT to amend Tennessee Code Annotated, Title 16, Chapter 15, Part 2, relative to special judges for general sessions and juvenile court.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 16-15-209, is amended by deleting subsection (a)(1) in its entirety and by substituting instead the following:

(1) When the judge is absent from holding court, in a county or district with more than one (1) General Sessions or Juvenile Judge, upon entering an order finding it in the best interest of judicial efficiency, a judge may sit by interchange for the absent judge. The order shall identify the absent judge and the interchanging judge, and shall be kept on file in the office of the clerk of the court. Upon finding that interchange is not in the best interest of judicial efficiency then the judge so finding shall proceed under subsection (a)(3).

SECTION 2. Tennessee Code Annotated, Section 16-15-209, is amended by deleting subsection (a)(2) in its entirety and by substituting instead the following:

(2) If a special judge is necessary, in a county or district with only one (1) General Sessions or Juvenile Judge, the judge, or the clerk of the court, may seek to find any licensed attorney who is a current, former, or retired judge, who will, by mutual agreement, sit as special judge. The appointment of a special judge shall be in writing, identifying the special judge, and kept on file in the office of the clerk of the court.

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SECTION 3. Tennessee Code Annotated, Section 16-15-209, is amended by deleting subsection (a)(3) in its entirety and by substituting instead the following:

(3) In counties or districts with more than one (1) General Sessions or Juvenile Court Judge, and upon a finding that interchange is not in the best interest of judicial efficiency, the judge so finding may appoint an attorney as a special judge, on a rotating basis, from a list of attorneys that have been previously approved by all of the duly elected or appointed General Sessions or Juvenile Court judges in the county or district, as being constitutionally qualified, in good standing, and possessing sufficient experience and skill. The appointment of a special judge shall be by written order identifying the absent judge and the special judge and kept on file in the office of the clerk of the court.

SECTION 4. Tennessee Code Annotated, Section 16-15-209, is amended by deleting subsection (a)(4) in its entirety and by substituting instead the following:

(4) In counties or districts with only one (1) General Sessions or Juvenile Judge, and where the judge is unable to find a current, former, or retired judge pursuant to subsection (a)(2), the clerk of the court may appoint an attorney as a special judge, on a rotating basis, from a list of attorneys that have been previously approved by the duly elected or appointed judge as being constitutionally qualified, in good standing, and possessing sufficient experience and skill. The appointment of a special judge shall be made in writing, identifying the special judge, and kept on file in the office of the clerk of the court.

SECTION 5. Tennessee Code Annotated, Section 16-15-209, is amended by deleting subsection (d) in its entirety and by substituting instead the following:

(d) In a county or district with only one (1) General Sessions or Juvenile Court judge, the judge may issue, and may amend upon showing a change in circumstances, a standing order regarding compliance with subsection (a)(2). Such order may include a

finding regarding whether a current, former, or retired judge will sit by mutual agreement in accordance with subsection (a)(2), and a list of attorneys to be contacted on a rotating basis under subsection (a)(4).

SECTION 6. Tennessee Code Annotated, Section 16-15-209, is amended by adding the following as a new subsection (e):

(e) All special judges appointed under this section shall be subject to the following limitations:

(1) All parties and counsel appearing before the special judge must be notified that the duly elected or appointed judge is absent and that a practicing attorney is serving as special judge.

(2) In a county or district with only one (1) General Sessions or Juvenile Judge, any party shall be entitled to continue the case pending the return of the duly elected or appointed judge.

(3) A special judge shall not approve the payment of attorney's fees, involving an indigent defense claim or any discretionary fees, except that a special judge may approve attorney fees when the exact amount is set by statute or when the party to be charged has signed an agreement calling for the payment of attorney fees, and said fees shall be the amount specified in the contract, but in no case more than one-third (1/3) of the principal amount of the debt upon which the suit is brought.

SECTION 7. Tennessee Code Annotated, Section 16-15-209, is amended by adding the following as a new subsection (f):

(f) The clerk of the court shall prepare, for each of their courts, an annual report on the use of special judges in the General Sessions and Juvenile Court. The report shall be on a form provided by the Administrative Office of the Courts and shall include,

for each division of court: (1) the total number of sessions of court presided over by a special judge, or by a judge sitting by interchange, and (2) the total number of sessions of court that are scheduled in that division each year. The year shall be the judicial year beginning on September 1 and ending on August 31. These reports shall be kept on file, and available for public inspection, by the clerks of the respective courts, and by the Administrative Office of the Courts.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.